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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES

Report on the visit to former Yugoslavia by a member of the Working Group on Enforced or Involuntary Disappearances at the request of the Special Rapporteur on the situation of human rights in the former Yugoslavia

(4-13 August 1993)

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Introduction

1. In his first report to the Commission on Human Rights at its first Special Session, the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia posited that there was an urgent need to establish an investigative commission, under the auspices and in cooperation with the competent United Nations bodies, vested with the task of determining the fate of the thousands of persons who had disappeared after the seizure of Vukovar, as well as of other persons who had disappeared during the conflicts in the former Yugoslavia (E/CN.4/1992/S-1/9, para. 67). He added that the Working Group on Enforced or Involuntary Disappearances of the Commission on Human Rights might be called upon to advise and assist in that regard.

2. At its forty-ninth session, on 23 February 1993, the Commission on Human Rights adopted resolution 1993/7, entitled "Situation of human rights in the territory of former Yugoslavia", in paragraph 33 of which, the Commission requested the Special Rapporteur, in consultation with the Working Group on Enforced or Involuntary Disappearances and the International Committee of the Red Cross, to develop proposals for a mechanism to address the subject of disappearances in the former Yugoslavia.

3. Accordingly, the Special Rapporteur held consultations with the Chairman of the Working Group and it was decided to request Mr. Toine van Dongen, a member of the Working Group, to conduct a mission to the Republic of Croatia and to the Federal Republic of Yugoslavia. Mr. van Dongen was accompanied by a field officer of the Centre for Human Rights, based in Zagreb.

4. The purpose of the mission was to consult with relevant governmental officials, including military officers who were involved in areas of combat at times when disappearances might have taken place, representatives of intergovernmental and non-governmental organizations, and families of those who disappeared, in order to determine which mechanisms might usefully be proposed with a view to elucidating the fate and whereabouts of the missing persons.

5. The present report has been discussed with representatives of the International Committee of the Red Cross at Geneva, who expressed their satisfaction.

I. AGENDA OF THE VISIT

6. The mission took place in the former Yugoslavia from 4 to 13 August 1993. The members of the mission visited Zagreb and Belgrade, and also two United Nations Protected Areas: Sector West and Sector East, particularly Vukovar. Given the conditions prevailing in the area, it proved impossible to organize a visit to other parts of the former Yugoslavia, notably Bosnia and Herzegovina, apart from a visit to Sarajevo by the Special Rapporteur on 11 and 12 August, during which he discussed the question of missing persons with various interlocutors on his own account.

7. The members of the mission were received in Zagreb by the Minister for Foreign Affairs and by the Minister of Health of the Republic of Croatia, by

the Head of the Office for the Victims of War, the President of the Commission for Imprisoned and Missing Persons, the former Head of the Medical Headquarters of the Croatian Army and other members of the Commission for Imprisoned and Missing Persons. They also met the Secretary-General of the Croatian Red Cross, a member of the Department of Information and Research of the Ministry of Health, the Deputy Bishop of Zagreb and representatives of the International Committee of the Red Cross (ICRC), the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Protection Force (UNPROFOR) and the European Communities Monitoring Mission (ECMM). In addition, they met representatives of three non-governmental organizations: Majke Vukovarske (Mothers from Vukovar), Bedem Ijubavi (Mothers for Peace) and the Christian Information Service. Lastly, they interviewed a former prisoner of war.

8. In Belgrade, the members of the mission were received by the Minister for Foreign Affairs and by the Minister of Human Rights and Minorities of the Federal Republic of Yugoslavia. They were also received by representatives of the Ministries of Defence, Foreign Affairs and Justice and by the Head of the Yugoslav State Commission of War Crimes and Genocide. They also met the Secretary-General and other officials of the Yugoslav Red Cross, and representatives of ICRC, UNHCR and UNPROFOR. In addition, they met representatives of three non-governmental organizations: the Humanitarian Law Fund, the Anti-War Centre and the Serbian Council Information Centre. Unfortunately, meetings with church representatives could not be arranged in time. During their trips to Sector West and Sector East, the mission was briefed by UNPROFOR.

9. Valuable cooperation was received from the authorities in Zagreb and in Belgrade, as well as from UNPROFOR. Requests for meetings with officials were readily granted; the logistical arrangements for the travel of the mission were efficiently carried out by UNPROFOR.

II. INSTITUTIONAL ARRANGEMENTS RELEVANT TO MISSING PERSONS 1/

A. Relevant institutions in the Republic of Croatia

1. Office for Victims of War and Commission for Imprisoned and Missing Persons

10. During the visit of the mission to Zagreb, a meeting was held with the Head of the Office for Victims of War and with the President of the Commission for Imprisoned and Missing Persons. The mission received oral and written information on the mandate of the two institutions. The Office for Victims of War was established on 13 May 1993 by the Government of Croatia to conduct, direct and harmonize activities in relation to the protection of the victims of war and their families. The Office and its Chairman are responsible to the Government.

1/ The mission was unable to evaluate governmental and non-governmental institutions and organizations relevant to disappearances established in other parts of the former Yugoslavia, outside the Republic of Croatia and the Federal Republic of Yugoslavia.

11. The Head of the Office is also a member of the Commission for Imprisoned and Missing Persons. The Commission was established on 13 May 1993 and has nine other members, for the most part representatives of various Ministries. Subcommissions for each United Nations Protected Area (UNPA) have competence to negotiate at a local level on questions concerning the exchange of prisoners and information. The Commission's mandate is to gather information on detained and missing persons from the territory of Croatia during the war. It also monitors the implementation of the Geneva Convention relative to the Treatment of Prisoners of War. The Commission is expected to report to the Government at least twice a year. It has collaborated closely with ICRC and the Croatian Red Cross in order to establish a strategy for tracing missing people and to investigate difficult cases, such as in Vukovar. However, it does not trace individuals, but transmits individual requests to the Yugoslav side.

2. Department of Information and Research of the Ministry of Health

12. The Department of Information and Research of the Ministry of Health gathers medical documentation from all hospitals in Croatia about all civilian casualties (dead or wounded, civilian or military). It collects the testimony of witnesses and other information on summary executions and mass graves and transmits it to international governmental or non-governmental organizations. Thus, the Department drew up a list of about 7,000 persons reported missing during the war. In addition, from the testimonies received, it establishes a coherent account of particular events, double-checking the data provided. Moreover, the Department has assembled information about Vukovar from witnesses and relatives of missing persons and has sent it on to international institutions such as ICRC, the United Nations Centre for Human Rights and the Commission of Experts on the former Yugoslavia established by the Security Council. The Department is in permanent contact with the Croatian Red Cross and the Croatian authorities in order to keep its list of missing persons up to date.

B. Relevant institutions in the Federal Republic of Yugoslavia

1. State Commission for Prisoners of War and Disappeared Persons

13. The State Commission for Prisoners of War and Disappeared Persons was established by the Government of Yugoslavia to establish contacts with the Croatian authorities with a view to receiving information on prisoners of war or missing persons belonging to the former Yugoslav People's Army (JNA). Thus, the Commission is only competent in the case of members of JNA who were captured or who were reported missing prior to 25 May 1992, at which date JNA was replaced by the Army of Yugoslavia. The information is gathered on the basis of requests made by relatives of missing persons. The Commission is not mandated to conduct negotiations with the Croatian authorities.

2. Yugoslav State Commission for War Crimes and Genocide

14. The Yugoslav State Commission for War Crimes and Genocide was established by the Federal Parliament in March 1992. It is composed of 40 members and

reports to the Parliament. Its objectives are to gather information on war crimes and genocide committed against the Yugoslav people. The Commission also collects information on missing persons.

C. Red Cross Societies

15. The Yugoslav Red Cross Society was created in 1876 and is at present composed of the Serbian and Montenegran Red Cross Societies. Since Croatia became independent, the Croatian Red Cross Society was recognized as a national society on 26 August 1993 and is to join the International Federation of Red Cross and Red Crescent Societies. The Yugoslav Red Cross does not cover the United Nations Protected Areas. Local Red Cross societies exist in Bosnia and Herzegovina.

16. The Croatian Red Cross and the Yugoslav Red Cross undertake a number of activities relevant to missing persons. For example, they transmit family messages and are present when exchanges of prisoners of war take place, as well as at the delivery of mortal remains. Both Red Cross Societies operate a tracing service, pursuant to the Geneva Conventions, and both, in accordance with established Red Cross procedures, draw up lists of missing persons based on information received from the relatives or friends of missing persons. One major challenge is finding a missing person when the only available information is the name.

17. Communication between the two Societies is said to be strained and the exchange of information slow. Both cooperate with ICRC.

D. Joint Commission to Trace Missing Persons and Mortal Remains

18. Consultations between representatives of ICRC and the Yugoslav and Croatian authorities resulted in the establishment, on 16 December 1991, of the Joint Commission to Trace Missing Persons and Mortal Remains. The pertinent agreement, signed in Pecs, Hungary, describes the mandate of the Commission as: "i. the coordination of the activities of the tracing services; ii. the intervention in some specific requests and more complex cases; and iii. the discussion of every unclosed request." The mandate of the Joint Commission covers the armed conflict from June 1991 to spring 1992. It concerns missing civilian and military persons.

19. The members of the Joint Commission are representatives of the Federal Executive Council of the Socialist Federative Republic of Yugoslavia (now the Federal Republic of Yugoslavia), the Republic of Croatia, the Republic of Serbia and the Yugoslav People's Army (now the Army of Yugoslavia). The Croatian Red Cross, the Yugoslav Red Cross and the Serbian Red Cross were designated as permanent advisers. ICRC acts as a neutral intermediary, putting "at the Joint commission's disposal a delegation which will chair the meetings of the Joint Commission".

20. The Commission has drawn up lists of missing persons. Lack of consultation with the relatives of the missing persons has made it difficult to keep the lists up to date. The single most important event that took place under the auspices of the Commission was an exchange of 1,200 prisoners of war on 14 August 1992. Soon afterwards, activities came to a virtual standstill,

and the Commission has not met since that time. The mission was informed that efforts were under way to arrange a new meeting, but a lack of political will had so far precluded this.

E. International Committee of the Red Cross

21. In the former Yugoslavia, parallel to relief and medical assistance, ICRC has concentrated on the exchange of family news, visits to prisoners of war and participation in prisoners release. ICRC has contacts with the relatives of missing persons in order to receive and transmit information. It is not at present involved in tracing as such, but its other activities, mainly the forwarding of thousands of messages between prisoners and families, have resulted in the clarification of numerous cases of missing persons. ICRC forwards "official requests concerning missing persons" to Red Cross Societies as the National Information Bureaux under the Geneva Convention.

F. Non-governmental organizations

22. The Mothers of Vukovar and the Mothers for Peace have collected an impressive amount of information on missing persons and have already transmitted numerous cases of alleged disappearance to the Centre for Human Rights at Geneva. Various organizations expressed concern that collective burial sites, reported to contain the remains of missing persons, had still not been excavated and that the task was becoming more and more difficult with time.

III. FRAMEWORK FOR ACTION

23. The following paragraphs present the outline of a framework for action on behalf of the United Nations with regard to the persons reported missing in the former Yugoslavia. Comparisons are made with the working methods followed at present by the Working Group on Enforced or Involuntary Disappearances, with a view to highlighting the need for a custom-made approach to the problem at hand. This approach will be referred to as "the special process".

A. General considerations

1. Perimeter of the framework

24. In its report to the Commission on Human Rights at its forty-ninth session (E/CN.4/1993/25 and Add.1), the Working Group argued in favour of the establishment of a separate mechanism to look into the question of disappearances in the former Yugoslavia. Pointing to its longstanding working methods, the Working Group posited in its report that if the Group itself were to assume the responsibility, its involvement in the matter would amount, at best, to a bookkeeping exercise, which would hardly do justice to the proportions of the problem. The United Nations, according to the report, needed to take action that transcended symbolic value alone and merited credibility on the basis of effectiveness. Action which failed to meet minimum standards of effectiveness might, in the final analysis, be harmful to the image of the world organization. This still appears to be the Group's concern today. Here lies the first segment of the framework's perimeter.

25. Conditions in much of the territory of the former Yugoslavia are normal; but in large areas they are totally abnormal, and in these circumstances, channels of communication usually open to diplomatic intercourse are sometimes closed for legal, political or merely practical reasons. Even where such channels are open, they do not necessarily lead to the best sources of information. Obtaining information, however, is the most important objective of any effort to find out what has happened to people reported missing. The only way, therefore, that any special process regarding missing persons can produce results with a minimum of effectiveness, is by taking a pragmatic approach to the problem. This is the second segment of the framework's perimeter.

26. Any procedure or mechanism the Commission chooses to establish should take as a point of departure the predicament of the relatives of missing persons. Its response to that predicament should be sensible and responsible and relatives should perceive it as such. This is the third segment of the framework's perimeter.

27. The United Nations has an independent responsibility to meet the problem of missing persons in the former Yugoslavia. Through the Working Group on Disappearances, the Organization is currently dealing with well over 30,000 cases of disappearance in over 60 countries. Faced with a new situation, of astounding scale and complexity, the United Nations is not now in a position to say it prefers to leave the matter in the hands of more experienced or resourceful organizations - foremost among these, the International Committee of the Red Cross and national Red Cross or Red Crescent Societies.

28. Nevertheless, parallel efforts inside and outside the United Nations system produce overlap and duplication. These must be avoided as much as possible. Certainly, the United Nations should not attempt to supplant more established mechanisms for tracing missing persons, even if it could. The working methods applied by the special process for missing persons in the former Yugoslavia must be chosen carefully to avoid undue friction among ongoing efforts and so as not to hamper other mechanisms and procedures. This is the fourth segment of the perimeter.

29. The Working Group, in successive reports over the past several years, has voiced growing concern at the lack of available resources. Support staff made available by the Centre for Human Rights has been reduced whereas the workload has grown exponentially. Unfortunately, the Working Group is no exception in the human rights programme. The United Nations spends less than 0.8 per cent of its regular budget on the realization of what the Charter lists among its main purposes: the promotion of human rights and fundamental freedoms. This situation is not going to change dramatically in the near future. Realistically, resources are likely to be extremely limited for a special process as regards missing persons in the former Yugoslavia. Proposals regarding the support staff, equipment and operating expenses of such a process should therefore be modest. This is the last segment of the framework's perimeter.

2. Declaration on the Protection of all Persons from Enforced Disappearance

30. On 18 December 1992, in its resolution 47/133, the General Assembly proclaimed the Declaration on the Protection of All Persons from Enforced Disappearance. It seems pertinent at this point to recall that the third paragraph of the Declaration's preamble of that resolution contains what may be considered a working description of a disappearance. The text reads as follows:

> "... [I]n many countries, often in a persistent manner, enforced disappearances occur, in the sense that persons are arrested, detained or abducted against their will or otherwise deprived for their liberty by officials of different branches or levels of Government, or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government, followed by a refusal to acknowledge the deprivation of their liberty, thereby placing such persons outside the protection of the law."

31. The paragraph is an important one. Clearly, the Declaration seems predicated on the idea that ultimately and in a broad sense, a disappearance must be government sponsored. The idea is conceptually sound: human rights and fundamental freedoms, by definition, concern the relationship between a State and the people on its territory. Violations of those rights, including disappearances, are carried out or condoned by government authorities, not by private citizens on their own account. Rather, the Declaration focuses on private citizens as typical victims of a disappearance. The ambit of the Declaration, for example, was not designed to include military personnel reported as missing in action.

32. The Declaration closely reflects the longstanding criteria employed by the Working Group in this regard over more than 10 years. The following paragraphs contain further references to the Declaration to see whether it provides sufficient latitude for the kind of action that appears to be needed in the realities addressed by the present report. It will be argued that, in certain respects, this may not be the case.

B. Working methods

1. Humanitarian approach

33. An overall feature of the Working Group's approach to the problem of disappearances is that the Group takes a strictly humanitarian, non-accusatory view of its mandate. It has consistently held that the Group should operate as an intermediary between relatives of disappeared persons and the Governments concerned. On the one hand it assists relatives in trying to clarify the fate and whereabouts of their loved ones. On the other hand, it insists with governmental authorities that they are responsible for having the matter properly investigated and should inform the Working Group of the results. The Group then communicates the information back to the sources. This is the mainstay of the Group's efforts.

34. By the same toke, the Working Group does not pursue the question of who is to be held responsible for an individual case of disappearance. Apart from

considerations of the strictly humanitarian approach of the Group, any attempt to ascribe responsibility would be unmanageable and perhaps even counter-productive. Unmanageable because, given the size of its workload, it is already difficult enough for the Group to follow up on a disappearance as such. Attempting in addition to identify the perpetrators would require capabilities far surpassing realistic expectations. Counter-productive because soliciting the cooperation of Governments in tracking down people who have disappeared is indispensable; and government authorities are likely to be less willing to share information with the Working Group if their cooperation could also lead to the incrimination of individual government officers.

35. On a more general level, however, the Working Group is indeed interested in responsibility for disappearances. It considers that impunity is the single most important factor contributing to the persistence of disappearances and has argued that perpetrators should be vigorously prosecuted to the full extent of the law. The special process for missing persons in the former Yugoslavia should follow the same approach.

36. Although disappearances may be indicative of war crimes or crimes against humanity, the special process need not concern itself directly with that aspect of the matter. The Commission of Experts on the former Yugoslavia, established by the Security Council pursuant to resolution 780 (1992), as well as the War Crimes Tribunal established by the Council pursuant to resolution 827 (1993), are mandated to pursue this question. They dispose of legal and practical means that are far superior to those of the Centre for Human Rights. The question of impunity in the former Yugoslavia, meanwhile, remains firmly attached to the mandate of the Special Rapporteur.

37. It is suggested, therefore, that the special process should take a strictly humanitarian, non-accusatory approach to clarifying cases of missing persons in the former Yugoslavia.

2. Character of the conflict

38. From the very early days of its existence, the Working Group has taken the view that cases occurring in the context of an international armed conflict should not be taken up by the Group. It argued essentially that such a task far surpassed its resources and, furthermore, that the International Committee of the Red Cross had far more extensive experience and elaborate methods for tracing all categories of missing persons in such circumstances. Also, the Working Group reasoned that persons who disappear under detention in situations of international armed conflict are almost invariably in the hands of the opposing Power. The determination as regards the ensuing obligations for the treatment of all persons under detention, including prisoners of war, falls within the ambit of the Geneva Conventions (and, at times, of additional Protocol I). The Working Group is of the view that ICRC is clearly the competent organization for such questions of missing persons and that this is true in particular for combatants. The Working Group has, however, dealt with disappearances of civilians (non-combatants) occurring in the context of a non-international armed conflict.

39. As regards the former Yugoslavia, maintaining any sort of distinction on the basis of the character of the conflict is not appropriate for the special process. First of all, there is no authoritative position within the United Nations system which might give guidance as to whether the armed conflict in that area is of an international or non-international character, nor as from what date it assumed such a character, nor whether the conflict might be qualified differently for different parts of the area at any given time. The Security Council avoids qualifying it and refers to "the armed conflict".

40. Second, and more importantly, if the Commission on Human Rights would opt for a humanitarian approach to the missing persons - as argued above - relatives in the former Yugoslavia would not easily understand and most likely not accept any such distinction if it would mean taking action on certain cases of missing persons and not on others. The argument that as of a certain date - if such date could in fact be identified - the character of the conflict changed from non-international to international, would be lost on them; all the more so, if the change would apply to only one of the two sides of any given border in the territory. Undoubtedly, it would appear arbitrary to them if the United Nations were to take on only cases occurring prior to a certain date, or occurring in a certain area before a certain date.

41. It would seem, therefore, that the character of the conflict should be regarded by a special process as irrelevant for the admissibility of cases of missing persons from the former Yugoslavia. In other words, all cases of missing persons in the area should, in principle, be admissible.

3. Link between armed conflict and missing persons

42. When dealing with a disappearance of a civilian (non-combatant) arising in the context of an armed conflict of a non-international character - Sri Lanka would be a case in point - the Working Group, as a rule, makes no distinction as to whether it occurred in an area where hostilities were in progress at the time, or alternatively, in a place where more or less normal conditions prevailed. It is suggested that the special process for Yugoslavia might wish to take the same approach.

43. The point is being made here for the following reasons. Theoretically, the Working Group could be entrusted with the consideration of cases from the former Yugoslavia that would appear to be "typical" cases of disappearance, i.e. the kind it would normally take on in any other country, while leaving the other cases to the special process. Such a case might present itself (to give an example of a "typical" case) if witnesses confirmed that the person concerned had been detained by law enforcement agents outside an area of hostilities, and inquiries by relatives had met with denials by the authorities.

44. In practical terms, this would not be workable. The Working Group would have to decide in each and every case - sometimes long after the fact - if the disappearance happened within or outside a combat zone, and whether in other respects the case would qualify as typically falling within the Group's mandate. As to the first question, the Group would no doubt be able to do so in some cases; but more than probably, it would not be able to make such a

determination in most cases. The second question would require a case-by-case analysis by the Working Group of each of the many thousands of cases pertaining to the former Yugoslavia, in order to determine whether the case met the Group's criteria. Only then could the Working Group decide to retain the case or send it on to the special process. Such an approach would be unnecessarily cumbersome and would outstrip the capacity of the Group itself and of the Centre for Human Rights.

45. The Working Group is not at present seized with any case of disappearance in the former Yugoslavia dating from before the declaration of independence by Croatia, if that date were to be taken as the beginning of the present era of armed conflict in the area. At this point it seems unlikely that any such case which the Group might be called upon to consider under its own mandate will come to be reported.

46. The Working Group decided at its thirty-seventh session to take up a single case from the former Yugoslavia, notably from Vukovar. That decision, in hindsight, may perhaps be considered rather hapless in view of the scale of disappearances in that location at that time and soon after. It is recommended that this case be transferred to the special process.

47. Finally, there is one more argument against having the Working Group operate in parallel with the special process: it would be confusing to authorities in constituent parts of the former Yugoslavia if they were to be approached on cases of disappearance by both the Working Group and by a special process, in particular, as both would be employing different working methods and different criteria. Similarly, it would confuse the relatives.

48. It is suggested, therefore, that all cases of missing persons in any part of the former Yugoslavia should be considered under the same procedure, regardless of whether they result from a context of active hostilities or not.

4. Combatant versus non-combatant victims

49. As a matter of principle, the Working Group has avoided taking on cases of disappearance which concern combatants. It has focused exclusively on civilians (non-combatants) who have become victims of disappearance at the hands of government agents, in the manner described in the Declaration on the Protection of All Persons from Enforced Disappearance. Members of movements such as the Tamil Tigers never came within its purview, either as victims or as perpetrators of disappearances. At the same time, the Group has declined to entertain cases resulting from common crime. For example, kidnappings by private individuals or by guerilla units for ransom or other forms of extortion, whether for political reasons or not, have systematically been put aside. The Group has termed these "abductions" rather than "disappearances".

50. In the situation encountered in the former Yugoslavia, such a limitation would be self-defeating. It became clear during the course of the mission that cooperation from military authorities in divulging or exchanging information on missing persons would only be extended if efforts towards clarification also concerned military personnel missing in action. Such

cooperation would be essential, as military archives on the war effort doubtless constitute the single largest source of information on the fate or whereabouts of those missing.

51. Arguing in favour of including military personnel may thus be courting expediency. Nevertheless, there is something to be said for it on its merits as well. The sorrow of relatives of a person missing in action is, after all, certainly no less than that of a relative of any other missing person. (An argument, by the way, which the Working Group has been keenly aware of as pertaining to its own terms of reference also.) A humanitarian approach to dealing with the sorrow of relatives of all categories of missing persons, including combatants, appears commensurate with the exigencies of the situation in Yugoslavia.

52. In theory, the line should be drawn where a case is clearly the result of common crime, as one would decidedly no longer be dealing with human rights abuses. Conceptual clarity, after all, is not to be neglected, not even in turbid situations. It may be possible to distinguish some cases of common crime from a regular disappearance prima facie. Such cases should be left aside.

53. It is suggested that as a matter of course all cases of missing persons should, in principle, be admitted into the special process, regardless of whether the victim is a civilian (non-combatant) or a combatant.

5. Government involvement or non-involvement

54. As recalled in paragraph 31, the Declaration on the Protection of All Persons from Enforced Disappearance concerns persons missing as a result of action which in one way or another was government sponsored. The working description in its Preamble already draws the circle rather wide, where it speaks of disappearances carried out by "private individuals acting ... with the ... acquiescence of the Government". It is to be recalled also that the term "Government" refers not only to the central Government but also to local authorities. As it is, most of the cases of missing persons in the former Yugoslavia are covered by the terms of the Declaration.

55. When measured against prevailing realities, the lines defining the field of action for a special process need to be drawn wider. First of all, in the chaos now prevailing in Bosnia and Herzegovina, perpetrators of cases of missing persons are not easily distinguishable. Even outside combat zones, the use of violence is resorted to by the army, the police, militias, civilian officials and paramilitary forces, as well as by private armies maintained by powerful warlords. The distinction between these categories is not always clear; most of them wear military-style fatigues or camouflage outfits, carry longarms and move about in olive-green vehicles. Furthermore, "ethnic cleansing" may take the form of cases of missing persons imputed to civilians, sometimes private citizens, if not neighbours. For the relatives of a missing person, caught in the vortex of the warring factions, it becomes irrelevant who exactly bears proximate responsibility. What does matter to them is which authorities are in a position to bring their case to the light.

56. Secondly, some cases of missing persons probably occur beyond the effective control of central Government agencies or local authorities, so that it becomes difficult to establish whether or not there was "acquiescence" on their part, as stipulated by the Declaration. A number of cases of missing persons, for example, have been attributed to the uniformed private troops of Mr. Arkan, generally described as a war lord and reported to hold sway over the area around Vukovar, in a United Nations Protected Area known as "Sector East". UNPROFOR, as the administering power, could certainly not be held responsible for Mr. Arkan's actions. The latter also appear to be beyond the effective control of the local authorities in Sector East, even though individual officials are thought to condone his actions privately.

57. Drawing the lines somewhat wider does not necessarily contradict the Declaration. The latter does not preclude action by the United Nations against a wider category of human rights abuses and forms of violence than disappearances as covered by the Declaration.

58. Once it is accepted that civilians (non-combatants) as well as combatants would come under the special process (as argued above), and once it is accepted also that cases of missing persons need not necessarily be government sponsored, a distinction in terminology should be made. The Declaration has reserved the terms "disappeared" and "disappearance" for, essentially, non-combatant civilians who have fallen victim to government sponsored action. As soon as one addresses a wider group of people, it would be more accurate to use the term "missing persons". The term, therefore, includes but is not limited to cases covered by the Declaration.

59. As argued above, some abductions may be due to common criminals wholly unrelated to hostilities or to the political and security situation prevailing in the territory. In so far as such cases can be identified prima facie, they should be left aside.

60. It is suggested, therefore, that as a matter of course the special process should take up all cases of missing persons, regardless of whether their perpetrators are in effect connected to government authorities or not. The special process should be considered as covering "missing persons" in a wider sense than implied by the term "disappeared".

6. Relatives and interlocutors

61. Information on cases of disappearance rarely reaches the United Nations Secretariat directly from the relatives of the missing person. Usually, a non-governmental organization acts as a conduit or interlocutor. It may be anything from a loosely organized group of concerned mothers to a more structured and well established international organization. As a general requirement, the Working Group needs to be satisfied that the interlocutor acts on behalf of the relatives, i.e. as a minimum with their tacit or implied approval. The reason for this is twofold. It highlights the humanitarian nature of the Group's intervention on behalf of the relatives and it prevents action by the Group when relatives fear reprisals. For the latter reason, also, the Working Group often keeps the identity of the interlocutor confidential vis-à-vis the Government concerned.

62. The special process should adhere to this principle as much as possible. In practical terms, this may be problematic. Clearly, in a war ravaged country, where sometimes whole families, if not neighbourhoods and villages, have been annihilated, possibilities of staying in contact with the families may quickly become illusory. Relatives may have become displaced persons or refugees. Worse, they may themselves be missing, or dead. For much the same reason, there may not be any member of the family left to report a case of a missing person to an interlocutor in the first instance. Of course, under the circumstances, the fact that nobody is able to inquire after a missing person should not vitiate the need for clarification of his or her fate or whereabouts. Some flexibility is therefore required. Nevertheless, the special process should include the general notion that the source is acting on behalf of the relatives.

63. Of course, information provided may not always be fully reliable, particularly in areas where the interlocutors experience discord with the authorities or where there are social tensions due to ethnic diversity. In exceptional cases, interlocutors may, for political or other reasons, feel tempted to submit unsubstantiated information. In the experience of the Working Group, it is not easy to protect a mechanism fully from such a problem. The Group has no independent means to evaluate the reliability of any particular source other than on the basis of a time-tested working relationship with that source or through information from other reliable local sources. Obviously it would not be appropriate to seek the views of the Government on the matter. A prudent approach and commonsense have thus far been effective tools, and in practice, there have never been major problems in this respect. There is no reason why the special process should not be able to build on this practice.

64. It is suggested, therefore, that the special process should incorporate a requirement that, wherever possible, interlocutors act on behalf of the relatives concerned and that the identity of the interlocutors be kept confidential vis-à-vis the respondents.

7. Criteria for admissibility

65. The Working Group requires a number of minimum elements of information before it will transmit a case to the Government concerned. They are the name of the disappeared, the date and place of disappearance, an indication of the forces held responsible as well as of the steps taken by the relatives to clarify the case. In practice, the Working Group has found that in order to distinguish two or more otherwise undistinguishable cases, it is virtually indispensable to know a place of origin (if not a home address) or age (if not a date of birth).

66. A special process should take its cue from the Working Group and require at least the following data: the full names of the missing person (element No. 1); in the case of missing military personnel, the rank and serial number would be included (elements Nos. 2 and 3). In order to distinguish effectively between persons with exactly the same name, the address or the last place of residence or the date of birth or the age would have to be available (element No. 4); preferably, of course, the address and the date of birth should be available for easy identification. The next requirements are

the place where and the date on which the missing person was captured, detained or last seen (elements Nos. 5 and 6). With regard to these last two elements, allowance would have to be made for the fact that, particularly in combat zones, precise information on dates and places may be difficult to obtain: approximate indications would therefore suffice to allow transmission. Finally, there needs to be an indication of the forces held responsible (element No. 7). Given the plethora of fighting forces, here again an approximate indication might suffice; it would, however, be important to know with which side in the conflict the perpetrators are identified.

67. There is another element which the Working Group requires, namely an indication of the steps taken by the relatives to locate or ascertain the fate of the missing person. Clearly, in the context of the situation of the former Yugoslavia, particularly Bosnia and Herzegovina at present, such a requirement would be too hard to meet.

68. It is suggested that the special process should include criteria for admissibility as outlined above.

8. Individual approach

69. The Working Group has developed a way of processing cases of disappearance whereby a fact sheet is prepared, with the help of a computerized standard format, for each and every case. The sheet comprises all the data supplied by the source, summarizes responses by the Government, if any, and indicates the action taken by the Group. Sometimes correspondence develops with regard to a single case between the Group and the source or between the Group and the Government. Forced by the work brought on by the caseloads from Iraq and Sri Lanka, where many thousands of cases have had to be processed, the Working Group has contented itself, in regard to a limited number of cases from Iraq, with tabulated lists of disappeared persons comprising abbreviated data for each case.

70. In view of the enormous and growing caseload, the special process would have to resort to the "Iraq" model followed by the Working Group. This model, even though simple, would still require computerized database programming as well as cross-checking of data on a case-by-case basis. At the level of the United Nations Secretariat such an exercise would require a computer trained secretary, an expert familiar with Serbo-Croatian and with the geography of the former Yugoslavia, as well as a professional responsible for the general overview of data processing, external contacts and reporting. It would also require two computers full time.

71. In order to expedite proceedings, interlocutors may be requested to provide information on computer diskettes. Some sources have already instituted this practice at their own initiative.

72. It is suggested that the special process should be based on an individual approach to cases of missing persons in the form of tabulated computerized lists comprising the minimum elements of information required.

9. Authorities and organizations to be approached

73. Following the established patterns of the United Nations, the Working Group transmits cases to Governments only, through Permanent Missions and Ministries of Foreign Affairs. This approach was predicated on the assumption that Governments are the prime source of information on the fate or whereabouts of missing people. The Group has desisted from soliciting help - and indeed declined offers - from non-governmental entities, such as liberation movements, in seeking clarification on any case of disappearance.

74. Clearly, in the context of the former Yugoslavia this would be a self-defeating approach. Certain parts of the territory are not States; others enjoy statehood, but are not recognized by the community of nations; still other areas are under the protection of the United Nations. Moreover, since the occurrence of a particular case of missing persons, borders and sovereign powers may have shifted, putting a different entity in control of the place where the events happened. In Bosnia and Herzegovina, where people continue to be reported missing throughout the area, one can only speculate who will be in control of what territory eventually, whereas cases are being attributed to all parties in the conflict. Consequently, central Governments of the region may not effectively possess all the information they would normally have. Local authorities, in the Krajnas, for example, may be more valuable as regards a certain category of cases than the Government in Belgrade, or in Zagreb for that matter.

75. Furthermore, by limiting itself to contacts with Governments only, a special process might very easily be sent from pillar to post in a territory where maps tend to be outdated before they leave the printing shop. Such a prospect already loomed during the mission.

76. Meanwhile, the United Nations efforts towards bringing peace to the former Yugoslavia have by necessity cut across established concepts of territorial control, sovereignty and recognition. Peace talks, as well as contacts on humanitarian aid and on maintaining public order, are being conducted by United Nations officials with different parties, at different levels, governmental or otherwise, on a daily basis. Building on this, the special process needs to take a pragmatic view and seek information on pending cases wherever and from whomever the information can be obtained.

77. The pragmatic approach would imply that reports on cases of missing persons would be submitted, sometimes simultaneously, to local, regional or national authorities, using Foreign Ministries as a focal point wherever there was one in place. It would also include contacts with ICRC - although that institution is, of course, bound to discretion under its mandate -, national Red Cross Societies and other institutions involved in tracing activities. Finally, in-house clearance of data with other United Nations agencies, such as UNHCR and UNPROFOR, would be de rigueur.

78. It is suggested, therefore, that the special process should take a pragmatic view in following up reported cases of missing persons by drawing on all available sources of information.

10. Clarification

79. The Working Group considers a case of disappearance "clarified" as soon as it is seized with information indicating beyond a reasonable doubt where the missing person is, either alive or dead, and when the Group is assured that the relatives will accept such information as definitive. The special process might wish to follow the same approach. A mere indication of whether the missing person is alive or dead would already be a giant step forward, as it would allow the relatives to commence a process of mourning and adjustment. Such information would not, however, mean a final disposition on the case. In other words, cases would be pursued under the special process until clarified or until such time as the Commission on Human Rights decided otherwise.

80. It is suggested that under the special process a case should be considered clarified only once it has been established where the missing person is, either alive or dead.

11. Training of interlocutors for relatives

81. The special process may wish to include an element of training for groups and organizations acting as interlocutors for the relatives of disappeared persons. Through the Centre for Human Rights in Geneva and the field office in Zagreb, interlocutors may be instructed as to how the special process operates and in what format cases could best be submitted. This may expedite proceedings considerably, while at the same time preventing false hopes and unrealistic expectations about what the United Nations can achieve.

82. It is suggested that the special process should devote ample time to instructing the relevant parties on the working methods to be followed.

12. Communication with authorities and organizations

83. Needless to say, authorities and organizations to be approached under the special process must be fully informed about its objectives and working methods, as well as about the level of cooperation expected from them by the United Nations.

84. It is suggested that under the special process authorities and organizations approached with a request for information on cases of missing persons should be duly informed about its objectives and modus operandi.

13. Character of the special process as a whole

85. The special process, for pragmatic reasons if none other, is essentially one that is conducted through administrative channels, involving database handling and correspondence. It would not involve any form of negotiation or consultation on the exchange of information or other matters, leaving those to more experienced organizations or to institutions that are better placed. This particular feature seems worth highlighting in view of the need, identified in paragraph 28, to avoid undue friction among ongoing efforts towards clarifying the fate and whereabouts of missing persons.

86. Meanwhile, labelling the special process "administrative" is not intended to suggest that the involvement of the United Nations as such in the matter would not extend beyond bureaucratic routine, and even less that its value would only be symbolic. On the contrary, the span of action and methods of work recommended in the present report represent an honest attempt to meet the exigencies of the situation within the constraints of the system.

87. It is suggested that the focus of the special process should not be on consultations or negotiations regarding the exchange of information on missing persons.

IV. IMPLEMENTING MECHANISM

88. The question to be examined now is who or which mechanism should be entrusted with the process. There are basically two options. One possibility would be to leave the mandate in the hands of the Secretary-General. The other possibility would be to assign it to a mechanism - a special rapporteur, a working group or a representative of the Secretary-General - answerable to a parent body. As regards the second option, one would have to choose between an existing or a new mechanism and decide on a parent body.

89. Numerous assignments encompassing many parts of the world have been given to the Secretary-General. In the field of human rights there are a growing number of examples. Some of them involve substantial operational activities over a longer period of time. A case in point is the United Nations Observer Mission in El Salvador (ONUSAL). In view of this, an argument could be made to place the responsibility for the special process with the Secretary-General. In practice, this would mean that the report on the relevant activities would be issued as a report by the Secretary-General to, in all likelihood, the Commission on Human Rights, and that a representative of the Secretary-General, for example an officer of the Centre for Human Rights, would present the report orally during a session of the Commission.

90. The Commission on Human Rights has in the past requested the Secretary-General to designate a special representative to deal with particular questions, such as the human rights situation in Iran. Such a representative operates under the authority of the Secretary-General. As such, he or she has, in practical terms, somewhat more latitude than the Secretary-General himself and perhaps somewhat less than a special rapporteur, who acts in his private capacity. In any event, designating a special representative of the Secretary-General would be tantamount to establishing a new mechanism.

91. Institutionally, the United Nations involvement in the former Yugoslavia is solid. Both the Security Council and the General Assembly have dealt with the matter extensively and the Commission on Human Rights devoted its first two emergency sessions to the same question. A United Nations mediator, Mr. Thorvalt Stoltenberg, has been deployed, reporting to the Secretary-General and the Security Council. The Council has set up the Commission of Experts on the former Yugoslavia, as well as the War Crimes Tribunal. The Commission on Human Rights has appointed a special rapporteur to look into the human rights situation in the former Yugoslavia, assisted by

a field office of the Centre for Human Rights, in Zagreb. UNPROFOR is charged with keeping the peace in the area, while other United Nations agencies - UNHCR taking the operational lead - have a presence there as well. The European Union has solicited the help of Lord Owen and has put an entire monitoring mission in place. In addition, ICRC has a strong presence in the former Yugoslavia. To add yet another mechanism especially for missing persons in the former Yugoslavia would amount to over-saturation.

92. Like all the thematic mechanisms that have followed it, the Working Group on Enforced or Involuntary Disappearances was established to look into developments as regards a single phenomenon worldwide. Country rapporteurs, on the other hand, are generally mandated to look into the entire range of human rights violations in a given country, including disappearances. The distinction between the two types of mechanisms has been maintained rather carefully by the Commission on Human Rights ever since 1980, the year in which the Working Group was established. It would be superseded if now a new thematic mechanism were to be put in place for a single area.

93. In any event, it would seem appropriate to opt for the Commission on Human Rights as the parent body for the mechanism concerned. Clarifying cases of missing persons, on a humanitarian basis, does not fall within the mandate of the Security Council, while the General Assembly does not dispose of satellite bodies such as the one contemplated. The Commission's involvement in the matter, on the other hand, is long-standing, as evidenced by the activities of the Working Group.

94. It is envisaged, therefore, that the special process should be entrusted to an existing mechanism or mechanisms of the Commission on Human Rights.

95. As is pointed out in the preceding section, the special process could not be carried out by the Working Group on Enforced or Involuntary Disappearances as part of its regular activities. Its working methods differ substantially from the ones needed to meet the particular requirements of the situation in the former Yugoslavia. Needless to say, the Group could not be expected to follow special working methods for one particular situation, however important, while maintaining the established modus operandi for all other situations. Furthermore, the Group already has a backlog of over 8,000 cases as it is, and would be unable to assume the case-load from the former Yugoslavia, estimated to run into well over 15,000 cases in the near future. The Group has argued as much in its report to the Commission on Human Rights at its forty-ninth session (E/CN.4/1993/25, paras. 36-44).

96. The Special Rapporteur on the situation of human rights in the former Yugoslavia, on the other hand, has been broadly mandated to look into all aspects of the matter. There is no reason why he should not undertake to look more closely into one particular part of the overall situation, into the clarification of cases of missing persons. Meanwhile, the Working Group should not sidestep its own responsibility as regards disappearances proper, wherever they occur, including in the former Yugoslavia.

97. Therefore, a joint venture between the Special Rapporteur and one member of the Working Group might be the most suitable solution for dealing with all cases of missing persons in any part of the former Yugoslavia. To be more

specific, the Working Group may wish to designate one of its members to implement the special process together with the Special Rapporteur. Their combined activities might be reflected in a joint annual report to the Commission on Human Rights. The first of such reports would be submitted to the Commission at its fifty-first session. Field visits on the subject-matter would in principle be carried out independently by the member of the Working Group concerned.

98. Given the interest of the General Assembly in the matter, there is no reason why the Special Rapporteur and the responsible member of the Working Group should not report jointly also to that body directly. The first of such reports might be submitted to the General Assembly at its forty-ninth session.

99. The Working Group should recommend that the special process should be entrusted to the Special Rapporteur on the situation of human rights in the former Yugoslavia and to one member of the Working Group on Enforced or Involuntary Disappearances as a joint mandate, resulting in joint reports to the Commission on Human Rights and, possibly, the General Assembly. The Working Group would designate one of its members to carry out the task.

100. As follows from the preceding chapter, in terms of administrative substructure, the special process could be supported by the pertinent unit of the United Nations Office at Geneva, at the discretion of the Secretary-General, presumably the Special Procedures Branch of the Centre for Human Rights, now dealing with human rights violations and violations of humanitarian law in the former Yugoslavia. Although the size of the operation would represent the bare minimum of an adequate United Nations response, operating costs are estimated to be approximately United States dollars 180,000 per annum.

101. The Working Group should recommend that the special process should be supported administratively by the Centre for Human Rights.

V. CONCLUDING OBSERVATIONS

A. The visit

102. A member of the Working Group on Enforced or Involuntary Disappearances undertook a visit to parts of the former Yugoslavia from 4 to 13 August 1993. He did so on behalf of the Working Group as a whole and at the request of the Special Rapporteur of the Commission on Human Rights as regards the former Yugoslavia, Mr. Tadeusz Mazowiecki. The member of the Group visited Zagreb, Belgrade and two United Nations Protected Areas (UNPAs) known as Sector East (enclosing the town of Vukovar) and Sector West. Unfortunately, a visit to other parts of the area, notably Bosnia-Herzegovina, could not be arranged owing to the conditions prevailing.

103. The purpose of the visit was markedly different from others which the Working Group had undertaken until then. Normally, the Group would dispatch two or three of its members to identify the "mechanics" and the "actors" in a given situation of disappearances, isolate the root causes of the problem, promote the clarification of disappearances and investigate how new cases

might be prevented from happening. Such a visit would then result in a separate report, containing a description of the context of violence in which the disappearances occurred, the legal and institutional background, an analysis of the data, and the viewpoints of the parties concerned, followed by conclusions and recommendations.

104. In the present instance, the objective was to have conversations with various parties who might have an opinion on how the problem of disappearances in the former Yugoslavia could best be approached. The purview, therefore, was not an analysis of the situation as such, but identifying a framework for action by the United Nations. Such a framework would, in the first instance, be decided on by the Commission on Human Rights, upon recommendations to be formulated by the Special Rapporteur. It is hoped that the present report may serve as guidance to the latter.

105. The visit, by and large, went smoothly and served its purpose well. The Governments in Zagreb and Belgrade were cooperative, while other interlocutors, such as national Red Cross Societies and groups of relatives of missing persons, proved to be hospitable and their explanations instructive. UNPROFOR officials not only provided valuable information but also proved adroit in making travel arrangements in the area.

B. The findings

106. Hardly any mission, whatever its purview, would return optimistic from the former Yugoslavia, for the realities of the situation there are staggering and opportunities limited. Looking into the matter of disappearances proves no different. The problem is formidable and, worse still, it is growing at a horrifying pace. The United Nations Secretariat is now seized with over 7,000 cases of missing persons. Estimates, based on the visit, are that the number may be well beyond 15,000 in the next six months. Meanwhile, the war in Bosnia and Herzegovina rages on. The number of missing persons resulting from that part of the conflict is anybody's guess for the time being. One should therefore have no undue illusions about what the United Nations could possibly achieve in terms of bringing these cases to light, not to mention preventing new ones. The International Committee of the Red Cross, for its part, is not at present undertaking any conventional tracing in the area, concentrating instead on other activities, such as the exchange of family news, which has resulted in clarifying the fate and whereabouts of large numbers of persons originally reported to be missing.

107. Nevertheless, the United Nations is being perceived as having an independent responsibility to act on cases of missing persons. This is not only felt at the level of the Mothers of Vukovar and the Mothers for Peace, but also in circles of Red Cross Societies and by government authorities. They recognize that the United Nations has already taken action on disappearances worldwide and expect therefore that their own predicament will be addressed soon. Some groups of relatives, it turned out, had begun to doubt whether the United Nations would ever move on the matter. After all, the war between Croatian forces and the Yugoslav People's Army started over two years ago and all that the United Nations has done as regards disappearances thus far is to take up one case from Vukovar.

108. There is clearly an astounding lack of political will to exchange information on victims of war. This is true for the Croatian and the Yugoslav sides, but also, it is suspected, for the fighting parties in Bosnia and Herzegovina. Discussions on the matter between government representatives, if they take place at all, are carried out without any fervour and produce a minimum of results. The expectation is that as long as the war goes on and the underlying territorial and social conflicts are not resolved, none of the parties will show any great eagerness to share information with the others. Meanwhile, there is little doubt in the minds of parties in Zagreb and Belgrade that the pertinent information is indeed available, carefully stored away in police and military archives. Generating political will is therefore a prerequisite for even beginning to uncover the fate and whereabouts of the missing persons. Fulfilling that prerequisite lies, of course, well beyond the parameters of the present exercise.

109. One would hope that sufficient political will will materialize once peace is established. But, it is a matter of concern that, as soon as peace accords are signed and observed, two countercurrents may hamper the clarification of the cases of missing persons, as the Working Group has observed for disappearances in a number of other situations. The first is that, generally, at the beginning of reconstruction after a devastating war, a nation as a whole tends to be looking forward rather than focusing on the past. Bygones must be bygones, without prejudice to respect for those who grieve over the loss of a spouse, a parent or a child. At the same time, when deep-seated hatred or mistrust keeps the issue of war casualties alive, readiness to exchange information on them is not necessarily going to be any greater than before. Settling the score, as it were, deprives the parties of leverage in dealing with lingering misgivings over the price of peace.

110. The second countercurrent is the following: uncovering the fate and whereabouts of missing persons may amount to uncovering traces of war crimes or crimes against humanity. It is doubtful whether this would find favour with the political leadership of the day. As a consequence, they may be reticent in lending active support to bring evidence to the surface.

111. Mass graves will remain a problem for a long time. During the visit, a number of reported "irregular" burial sites were observed, in different parts of the country, allegedly containing the remains of persons of different ethnic extraction. For the purpose of uncovering evidence of war crimes, sample exhumations at a mass grave are sufficient. Perpetrators are more relevant than victims in that context. By contrast, for the purpose of clarifying cases of missing persons, all bodies must be exhumed and if possible identified. Apart from manifold sensitivities - political will must be unconditional - such an undertaking would be a Herculean task. The United Nations should seek to establish such a forensic enterprise under its auspices, help to find available experts and procure funds, if need be from private sources.

112. Even then, in the best of scenarios, large numbers of pending cases will remain. Some cases simply can never be resolved. After all, tracing people from the First World War continues to this day. In the sentiments of the

Balkanites, those missing persons will always serve as a reminder of what was done to them, keeping the dust from settling once and for all. That perhaps would be the ultimate irony.

VI. SUMMARY OF PROPOSAL

113. The perimeter of the framework for action, discussed in the present report, consists of five segments. Action by the United Nations on missing persons in the former Yugoslavia (the "special process") should meet minimum standards of effectiveness. It must take a pragmatic approach. It should take the predicament of the relatives of missing persons as its point of departure and formulate a sensible response to it. Undue friction with ongoing efforts to trace missing persons should be avoided. Operating costs are to be realistic.

114. The special process should take a strictly humanitarian, non-accusatory approach to clarifying cases of missing persons in the former Yugoslavia. The character of the conflict, i.e. whether it is international or non-international, should be regarded as irrelevant for the admissibility of cases. All cases of missing persons in any part of the former Yugoslavia should be considered under the same procedure. All such cases should, in principle, be considered under the special process, regardless of whether the victim is a civilian (non-combatant) or a combatant and regardless of whether the perpetrators are in effect connected to the Government or not. In other words, the target group would be wider than the one covered by the Working Group on Enforced or Involuntary Disappearances and by the Declaration on the Protection of All Persons from Enforced Disappearance. For conceptual clarity, using the wider term "missing persons" would set the target group apart from the more circumscribed group of "disappeared persons".

115. The special process should incorporate a requirement that, wherever, possible, interlocutors act on behalf of the relatives concerned and that the identity of the sources be kept confidential vis-à-vis the authorities or organizations addressed. Clear and pertinent criteria for admissibility should be established for all cases of missing persons. The process should be based on an individual approach to such cases in the form of tabulated computerized lists containing the minimum elements of information required. The special process should draw on all available sources of information. A case should not be considered clarified until it has been established where the missing person is, either alive or dead. Ample time should be devoted to instructing interlocutors on the working methods followed. Authorities and organizations approached with requests for information should be duly informed about the objectives. The special process should not involve consultations or negotiations on the exchange of information.

116. The special process should be entrusted to the Special Rapporteur on the situation of human rights in the former Yugoslavia in a joint mandate with one member of the Working Group on Enforced or Involuntary Disappearances, resulting in joint annual reports to the Commission on Human Rights and, possibly, the General Assembly.